

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 01 2008

MOLLY C. DWYER, CLERK OF COURT
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FELIPE SANCHEZ-MONTES, AKA
Morcos, AKA Marco, AKA Homero
Picazo,

Defendant - Appellant.

No. 08-35366

D.C. No. 3:99-cr-00036-HRH-4
District of Alaska, Anchorage

ORDER

RECEIVED
JUL 07 2008
CLERK, U.S. DISTRICT COURT
ANCHORAGE, AK.

The district court's order denying appellant's motion to reduce his sentence was entered on the docket on April 1, 2008. Appellant's notice of appeal from that order was dated April 15, 2008, but was not filed until April 18, 2008. Thus, the notice of appeal was not filed within 10 days of the entry of the order, as required under Fed. R. App. P. 4(b).

Because appellant is a pro se prisoner, however, his notice of appeal is deemed filed when it was delivered to prison authorities for forwarding to the court. See *Houston v. Lack*, 487 U.S. 266, 270 (1988). Accordingly, within 21 days after the date of this order, appellant shall file with this court a declaration or notarized statement attesting to the date on which his notice of appeal was deposited in the institution's internal legal mail system and whether first-class postage was prepaid, or otherwise show cause in writing why this appeal should

not be dismissed for lack of jurisdiction. See Fed. R. App. P. 4(b); Hostler v. Groves, 912 F.2d 1158 (9th Cir. 1990); Miller v. Sumner, 921 F.2d 202 (9th Cir. 1990).

Appellee may file a response to the declaration within 7 days from the date of service of appellant's response.

Appellant's failure to comply with this order shall result in the automatic dismissal of this appeal by the clerk for failure to prosecute. See 9th Cir. R. 42-1.

FOR THE COURT:

Molly C. Dwyer
Clerk of Court

By: Joe Williams
Deputy Clerk